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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,	**P1300CR201001325**
Plaintiff,	
vs.	**MOTION FOR CHANGE OF VENUE**
STEVEN DEMOCKER,	
Defendant.	**(Hon. Warren Darrow)**

The Defendant, by and through undersigned counsel, hereby moves for change of venue from Yavapai County to another county, for the reasons set forth herein.

A fair trial is a fundamental liberty interest. State v. Bible, 175 Ariz. 549, 858 p.2d 1152 (Ariz. 1993). This includes the right to be tried by a fair and impartial tribunal. U.S. Constitution, 5th, 6th and 14th Amendments; Arizona State Constitution, Art. 2, §§4 and 24. The jury's determination must be based solely on the evidence produced at trial -- and *not on preconceived notions based on publicity*. Irwin v Dowd, 366 U.S. 717 (1961). (Italics added)

Motions for change of venue are governed by Rule 10.3, Arizona Rules of Criminal Procedure. The standards established under Arizona rules are also protected by the Constitution. State v Befford, 157 Ariz. 37, 39, 754 p.2d 1141 (1988).

In certain cases, presumed prejudice is necessary to offset the influence of the news media

in the community or courtroom. Irwin v. Dowd, supra[1]. Presumed prejudice disregards the jurors' answers that they can be impartial. Irwin, supra; Bible, at 565, 858 p.2d at 1168. Consequently, the publicity in question must be unfair, prejudicial and pervasive. Id.

In considering a motion for change of venue, ***the court considers the effect of pretrial publicity, rather than its quantity***, and first examines whether the publicity created a presumption of prejudice. St. v. Jones, 197 Ariz. 290 (2000) (citing St. v. Greenawalt, 128 Ariz. 150, 624 P.2d 828 (1981) and St. v. Murray, 184 Ariz. 9, 906 P.2d 542 (1995), Emphasis added).

Prejudice may be presumed if the community was saturated with prejudicial and inflammatory publicity, not if stories were prejudicial and inflammatory publicity, not if stories were factual. State v LaGrand, 153 21, 33 (1987). Presumptive prejudice will be found if the stories are false or unfair. State v Miles, 186 Ariz. 10, 16 (1996). Publicity is acceptable if the news articles are dispassionate factual summaries. Greenawalt, supra.

To summarize these cases, pretrial publicity is deemed presumptively prejudicial if:

1. It is pervasive
2. It is prejudicial and inflammatory
3. It is unfair or untrue.

The Daily Courier has published numerous articles about this case, both before the Defendant was arrested and since. The articles typically include a decription much like this one:

> "... the 56-year-old stockbroker who is accused of killing his ex-wife, Carol Kennedy, by beating her to death in 2008. DeMocker is currently preparing for the retrial."

("Prosecution goes after DeMocker's former lawyer," The Daily Courier, 7/28/2001).

The story illustrates the problem: the paper's summation of this case, in virtually every article it prints – for a three year period, and still available online – contains a strong implication

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[1] See also Estes v Texas, 381 U.S. 532, 85 S.Ct. 1628, 14 L.Ed.2d 543 (1965); Sheppard v Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed.2d 600 (1966); State v Atwood, 171 Ariz. 576, 631.

conclusion that the Defendant is guilty as charged. The continued mention of the word "stockbroker" in relation to the Defendant invokes an image of class warfare, and that the Defendant must be rich and entitled.

During the same time period, the local country-music station, 105.7, "KVRD," has been running on-going "news stories" about the case. The Yavapai Broadcasting Corporation site www.myradioplace.com has a link to KVRD and to "Local News," under the heading "Yavapai Broadcasting News," which contains the following information, current as of Sunday, August 7, 2011:

> "Democker lawyesr [sic] say no to former attorney's deposition"
> Filed under Quad-Cities on Monday, August 01, 2011 by Author: News.
>
> Lawyers for a Prescott *stockbroker* facing a murder retrial say they won't allow his former defense attorney to give a deposition in the case. John Sears is one of two attorneys who quit Steven DeMocker's case in October, citing a conflict of interest. The move triggered a mistrial in November. Prosecutors filed a motion last week that Sears be deposed as a material witness. But DeMocker's current lawyer says any communications between Sears and DeMocker remains confidential and privileged. The 56-year-old DeMocker is accused of killing his ex-wife, Carol Kennedy, with a golf club in July 2008 *to avoid paying hefty alimony bills*. He faces a life sentence if convicted. The Associated Press says DeMocker's retrial is scheduled to start on Sept. 7.

(Source: http://www.myradioplace.com/iNews/view.asp?ID=853, printout of web page attached, emphasis added).

No mention is made, in either of these "news sources," that the Defendant pleaded "not guilty" to all charges and that he is *presumed innocent* under the Constitutional protections guaranteed by the U.S. and Arizona Constitutions.

In larger counties, an allegation of murder would not have generated as much prejudice amongst the jury pool as it has in this small county. In the brief time the Defense has had the jury questionnaires, a disturbing trend is prominent in the first 200 jury questionnaires that have been reviewed. Fifty members of the jury pool admitted they have reached a conclusion based on the media surrounding this case, of those 50 potential jurors those who leaned toward a guilty

verdict over a not guilty verdict was 47-3! That, without any actual evidence having been presented.

The blogs which are accompany the attached articles from The Daily Courier show a pervasive and clear bias for the state and against the Defendant, again, without any actual evidence having been presented. The blogs are only available online, @ http://www.dcourier.com/ and are disturbing, to say the least.

This publicity produces prejudice towards the Defendant: the re-telling of this case contains the conclusion that the Defendant is guilty as charged. The effect of that coverage is that this case has been tried in the media, unfairly and with incomplete information.

The media coverage will most likely effect the jury pool against the Defendant. Thus, the only location for the Defendant can receive a fair trial is in another county.

The Yavapai County jury pool is tainted. The pre-trial publicity is pervasive, prejudicial and inflammatory, and is unfair or untrue.

> "As I stated before, I firmly believe that he is guilty and the smirk that appears on his face when his photo is in the news media repulses me."

(Potential Juror 298489).

It simply cannot be argued that the media coverage has not effected the jury pool. The only location for the Defendant can receive a fair trial is in another county.

RESPECTFULLY SUBMITTED on August 8, 2011.

Craig Williams
Attorney for Defendant

Original delivered via the Clerk's Office to:
Hon. Warren Darrow, Judge of the Superior Court

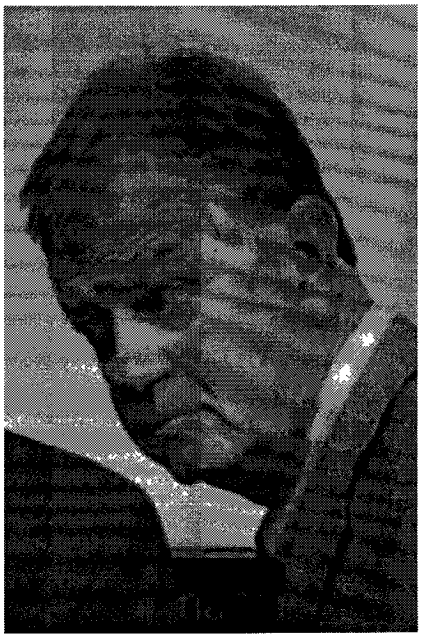
Jeff Paupore, Yavapai County Attorney's Office
Greg Parzych, via e-mail.
The Defendant, via mail.

By: _____

7/28/2011 9 58 00 PM

Prosecution goes after DeMocker's former lawyer

Scott Orr
The Daily Courier



John Sears

PRESCOTT - A new court document filed by the prosecution in the Steven **DeMocker** murder trial asks Superior Court Judge Warren R Darrow to order former **DeMocker** attorney John Sears to give a deposition as a material witness in the case.

Sears is one of the attorneys who quit the **DeMocker** case in October along with Larry Hammond, citing a "conflict of interest."

That move triggered a mistrial in the case of the 56-year-old stockbroker who is accused of killing his ex-wife, Carol Kennedy, by beating her to death in 2008. **DeMocker** is currently preparing for the retrial.

In the filing, Deputy County Attorney Jeffrey Paupore outlines the reasons he wants to see Sears deposed.

Paupore said a Calloway golf club cover, a key piece of evidence, was overlooked in the investigators' initial search on July 3, 2008, at 9 a.m. When the medical examiner suggested that Kennedy's wounds resembled the shape of a golf club, the Yavapai County Sheriff's Office executed a second search warrant at 6:40 p.m. to retrieve the golf club cover, but could not find it

When **DeMocker** was arrested in October, Paupore said, he told investigators that he had given the cover to Sears "a few days after the murder," and deputies retrieved it from Sears that same day.

Paupore asserted that Sears "secreted" the golf club cover "for over three months without informing law enforcement "

Paupore also implicated Sears in the anonymous email and "Voice in the Vent" defense that **DeMocker** attempted to use

Sears told the prosecution that **DeMocker** had heard - via a voice in the air vent in his cell - an anonymous person who told him who had actually killed Kennedy and why.

A month after that, Sears informed the prosecution that he had received, in his email, more information about who killed Kennedy.

"Both instances were remarkably similar," wrote Paupore, "but, according to Mr. Sears, (the information was) sent by different people "

Daughter Charlotte **DeMocker** eventually admitted to writing the email and sending it to Sears The voice in the vent "was totally fabricated" by **DeMocker**, said Paupore

Paupore wrote that Sears was involved in the distribution of Carol Kennedy's life insurance money and he claimed that Sears "had personal knowledge" that **DeMocker** "controlled" $700,000 of the proceeds, due to having assigned trusteeship to a close friend, during the time Sears argued to the court that **DeMocker** was broke.

Sears, according to an email provided by Paupore, was unwilling to submit to an informal interview with the prosecution, citing **DeMocker**'s wishes that attorney-client privilege be maintained.

Paupore requested that Darrow order a deposition in court and on the record.

Contacted Thursday afternoon, Sears said would he not comment, citing ethical rules, except to say he would respond to the motion.

"I will have a great deal to say about this case, but this is not the time," he said. "Mr. **DeMocker** deserves a fair trial."

"But believe you me, I will have a lot to say" when the time is right, he concluded

DeMocker's attorneys have not yet issued their response, and a court-issued gag order prevents either side from talking publicly about the case.

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Reader Comments

Posted Thursday, August 04, 2011
Article comment by: **To: Did It Occur?**

There is no proof that Democker ever gave the club to Carol prior to her murder except his word (of a proven liar). Anyone else that remarked about the club and garage sale also said they got there information from Democker (not Carol). Also, "2011-07-22 Transcript 3" filed under the first case number on the court website 7/29/11 gives an excellent account of Knapp's whereabouts on July 2, 2008. The only item not mentioned in the transcript is the cell phone call by Knapp to his voicemail at 7:58pm that pinged near his ex-wife's house location (the prosecution has an expert to present this information). Anyone reading the transcript can easily see that it is virtually impossible for Knapp to have had anything to do with Carol's murder (plus he had no motive) It is a 15-20 minute drive each way between the ex-wife's house and Carol's house. The ex-wife states she left Knapp with her son 6:15-6:30pm at her house. The son says both he and Knapp watched all of a video "Harold and Kumar" and that Knapp did not leave during the video. (This one of the videos that the Hastings manager who also testifies says was rented to Knapp earlier in the day) The ex-wife says she returned between 8:30-9pm and saw Knapp. Knapp is subsequently identified by the ex-wife in a Safeway store video at 8:58pm which is about 10 minutes away from the ex-wife's house making the 8.30pm time of the ex-wife's return much more likely. You would have to believe that an 11 year old lied about his dad leaving the house without his cell and that the 11 year old dialed his dad's voicemail on the cell and used his dad's voicemail password in order to break Knapp's alibi There is zero evidence that the son has ever lied for the dad (seems like good kid). Having failed at attempts to label Mr. 603 and Knapp as fall guys, the defense needs to come up with a new theory.

Posted Wednesday, August 03, 2011
Article comment by: **Did it ever occur to you there are other ways a used golf club could disappear?**

A yard sale is not the only way to sell a used golf club. She might have sold it to a used sports equipment shop figuring she would get a better price. She could have donated it to a school sports program. On-scene tenant Knapp could have grabbed it from the yard sale pile and sold it himself since it was reported he was desperate for money. Rather than sell it, Knapp could have used it and then hidden it since it was reported his house was not searched the night of the murder.

Posted Tuesday, August 02, 2011
Article comment by: **Hey Defense Where's the Club**

If the golf club is NOT the murder weapon, and DeMocker's attorney's had the headcover, then PRODUCE THE GOLF CLUB. It's simple.

Posted Tuesday, August 02, 2011
Article comment by: **Without a doubt golf club**

DeMocker admitted giving Carol art and a single golf club to offer a yard sale. One of the daughters also told investigators she knew about the golf club too. There was no yard sale, and item with tags were found by investigators the night she was murdered. The golf club was the murder weapon and it's no stretch to see why DeMocker is back pedaling about it now. Why would he talk about the murder weapon? Who knows? Why would he tell investigators he was in that neighborhood riding his bike, and why was he? "Smart" criminals with a gift for gab often divulge important facts before they get their lawyers involved to try and un-ring those bells Anybody who has ever met him would notice he talked and talked and talked and sometimes lacked discretion,

Posted Monday, August 01, 2011
Article comment by: **More Than Theory**

Don't confuse likely and probable with possible. Per ME and Fulginitti, the golf club was the most likely or probable weapon As most things are not 100% certain, there is a possibility of something else. But the key is if the possibility is a reasonable one (given all the other surrounding facts and circumstances) rather than remote. Democker moving around the golf club cover makes it even more likely the weapon was his golf club--otherwise, why did he move the cover? The cops did not even know yet the golf club was the probable weapon when he moved it VERY SUSPICIOUS behavior on Democker's part.

Ask The Editor

The Daily Courier Editors
Prescott Newspapers, Inc.
Expertise: Newsroom managers
Prescott, Arizona
928-445-3333

Q: * How do my husband and I get to see past newspapers For instance, my husband would like to look at the Sunday classified job section but sometimes can't get time to do this until Monday or Tuesday What do we do to be able to see the Sunday classifieds on Monday or later? Thank you, Mrs Savard

A: You can view past Daily Courier editions on our alternate 3D Web site that hosts the pages of the printed newspaper. . .

Q: * I would like to look at pictures in the photo gallery of PHS 2010 graduation. Are they archived?

A: You can access the grad photos at dailycourierpages.com Enter the site by

Posted Monday, August 01, 2011

Article comment by: **Golf club is a nothing more than a convenient theory**

According to the previous commenter, the only evidence the murder weapon was a golf club is that Democker mentioned he gave one to Kennedy. But no actual murderer is going to volunteer information after the fact about the weapon he used, so the golf club theory looks like nothing more than a convenient hook for the prosecution's guesswork. As for the so-called experts, they both testified for the prosecution side but even so Fulginitti said it could have been many different objects other than a golf club, and Keene well nevermind about Keene. There is no point discussing the now-discredited ME (pickup truck body toting, failed skull reconstruction, poor autopsy protocols, etc etc etc). It will be interesting to finally hear from an expert witness from the defense side who is actually qualified, though maybe we never will since the rampant government misconduct over sealed documents may scuttle the second trial before the defense even gets to put on a case

Posted Sunday, July 31, 2011

Article comment by: **Golf Club Was Most Likely Weapon**

DEMOCKER is the source that said he gave the golf club to Carol for a garage sale. There is no one else that knew anything more than what Democker told him or her For all we know, Democker brought the club with him the night of the murder and deposed of it after the murder Both the ME and Laura Fulginitti, the renowned forensic anthropologist, pegged the golf club as the most likely murder weapon that explained the victim's injuries. The fact that the club is missing (like the La Sportiva shoes) and that the golf cover went temporarily missing BEFORE POLICE KNEW ABOUT THE CLUB AS THE MURDER WEAPON is very telling.

Posted Sunday, July 31, 2011

Article comment by: **Attorney Tells Two Tales**

The court transcript dated 3/10/09 (see court website 2/3/11 for "2010-09-22 Transcript") is revealing about both the life insurance monies and Democker's financial situation Beginning on pg. 11, Sears describes how Democker is struggling financially, that the Bridle Path house is in foreclosure and that his family has limited means to help him. But what is most interesting begins on pg. 43 where Sears talks about the life insurance monies--how there have been no distributions and how all those monies when distributed must go to Carol's estate for the benefit of her creditors (including the Bridal Path mortgagor since the house is in the Estate). Sears has already stated on pgs 28-29 that the Estate has solvency problems. What makes Sears's statements most interesting are that they occurred just a week after he helped Democker disclaim the life insurance SO SEARS KNOWS that the monies will be paid out soon and doesn't tell the Judge. In fact, those monies are paid out a month later by Hartford Life. Does Sears tell the Judge then about the receipts? No, instead, he files indigency claims for the defendant in July 2009 AT THE VERY SAME TIME he is getting Democker's girlfriend appointed as successor Trustee to facilitate a series of transfers of the life insurance monies to Democker's defense. Does Sears tell the Judge about the life insurance receipts when on August 17, 2009 and October 10, 2009, Sears and his fellow attorneys receive a total of $700,000 of the life insurance monies? No, instead he helps Democker claim $1,000,000 in taxpayer monies for his defense from 2009-2010 as an indigent. The obvious question is why is Sears is telling two tales here?

Posted Sunday, July 31, 2011

Article comment by: **With Liberty and Justice for All**

I just hope that the defense has thoroughly deposed the Medical Examiner Moreover it seems to me that the judge should not allow the defendant's attorney to be used against him.

Posted Saturday, July 30, 2011

Article comment by: **agree golf club has always been nothing but a bad guess and new transcript proves it**

The prosecution has never found the murder weapon or proved it was a golf club. A golf club never made sense to me but it was a convenient guess by lead investigator Huante given that transcripts prove he had it in for Democker from Minute One. But the transcript just posted also shows Huante really had no idea what was really going on or how some golf club Kennedy probably already sold could be the murder weapon. And the pro-government blogger(s) have posted ad nauseum as though it was already proved. The golf club isn't in evidence All it is is wishful thinking by the prosecution.

Posted Saturday, July 30, 2011

Article comment by: **Golf club theory makes no sense**

There is no plausible scenario for DeMocker having anything to do with the golf club. Read the transcript posted yesterday and Huante's failed attempt to concoct any coherent scenario. He rode with it on his bike? He stumbled on it by coincidence in the house?

Posted Saturday, July 30, 2011

Article comment by: **wonder why**

Most experienced, savvy defense lawyers keep themselves well guarded from personal involvement with their criminal clients It is unusual for an attorney to have testify about crimes they are aware their clients committed but it does happen. Look at lawyers who defended mobsters who ended up as witnesses because of their own involvement. Does not happen often, but does happen It happens as rarely as lawyers backing out of a case during trial because of a conflict of interest and for possible ethics violations.

Posted Saturday, July 30, 2011

Article comment by: **to melissa mitchell**

Parental sacrifices for their children shouldn't include false confession to murder, especially when that would make the children worse off The daughters are surely living their lives as best they can under these awful circumstances of having their mom murdered and their dad falsely accused I doubt Democker will follow your suggestion of pleading guilty when he is innocent.

Posted Saturday, July 30, 2011

Article comment by: **Court Release Transcript Related to Knapp's Alibi**

On the court website (see 7/29/11 postings--Transcript 3), you will now find the September 8, 2010 trial transcript testimony (mostly) concerning Knapp's alibi. What is amazing is that defense supporters are still trying to say Knapp could have been the murderer. First, the Hastings manager testifies that Knapp rented 4

clicking on the main photo, then in the...

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DVDs at 2:53 pm and the DVDs were returned and checked back in by the clerk in at 10:48pm (DVDs could have been sitting in the return box for a while). Then, Knapp's ex-wife testifies that Knapp arrived at her residence (between Country Club and Gurley St) between 6pm-6:15pm to babysit the younger son, Alex. The ex-wife states that Knapp frequently brought movies to watch with his sons Alex later testifies that he saw the entire Harold and Kumar movie with his dad and that his dad did not leave during the movie. There is no reason to doubt Alex's testimony and no indication that the son has ever lied for his dad The ex-wife states she returned home between 8:30pm and 9pm. We know it was closer to the 8.30 pm because the ex-wife later identifies Knapp as being in a Safeway (Willow Creek) store video at 8 58pm (We also know from separate court filings that Knapp checked his voice mail at 7:58pm which pinged close to the ex-wife's residence) Presumably, Knapp returned the videos either just prior or just after visiting Safeway. There are simply no holes here big enough that would allow Knapp to travel the 40 minutes back and forth from the ex-wife's house to Carol's residence to murder Carol at 8pm (plus no motive). Knapp's alibi seems pretty air tight to me.

Posted Saturday, July 30, 2011

Article comment by: **To: Melissa**

You can't expect a narcissist to put the needs of his family before his own. If Democker were a good parent, he would have never involved Charlotte in his email evidence tampering scheme or bullied Katie in helping to transfer the life insurance monies that belonged to Carol's Estate to Democker's defense. He would have hoped that the life insurance monies could sustain his children and pay for their education in his absence. If Democker were a good son, he would have refused the monies that his parents needed to stay retired (in their 80's) instead of allowing his physician father go back to work. If Democker had been a good husband, he would not have cheated repeatedly on Carol while married or leveraged the family's assets to the hilt for an excessive life style. Instead of unselfishly putting his family's need first, what is Democker actually doing? Trying every dirty trick he can to get himself out of jail. He truly cares about no one but himself so his family will continue to suffer through this ordeal. Hopefully, there is enough of Carol in Katie and Charlotte to guide them through the process.

Posted Saturday, July 30, 2011

Article comment by: **Be Very Afraid if Attorneys are Allowed to Testify Against Their Clients**

It amazes me that no one other than Mike Palmer has any concern whatsoever that DeMocker's ex-attorney's testimony would be a gross violation of attorney-client priviledge. Would any one ever again get fair legal representation knowing that their very own attorney could end up testifying against them? I would be very, very afraid of a judicial system that would allow this to happen.

Posted Friday, July 29, 2011

Article comment by: **melissa mitchell**

my son is friends with the daughter of the victim they were in high school together when this happened. what i am saying is the children are the ones who are suffering the most. can you imagine your father murdering your mother when you are a young teenager? the kids have lost both of their parents this man should stop being selfish and just plead guilty and let his children try to move on with their own lives already. guilty or not.

Posted Friday, July 29, 2011

Article comment by: **So why did DeMocker hide this gold club cover if it was not linked to the murder weapon?**

It would be possible to strike somebody with a golf club with 9ft ceilings. Where and how was the killer holding the club? Or could he have knocked her to the floor and then began the killing strikes? There are many ways I can think of that would implicate the golf club. Obviously DeMocker had concerns enough to hide the golf club cover and give it to his lawyer all before he was told the ME suspected a gold club had been used. It's obvious why DeMocker and his supporters would like the public to overlook the murder weapon being the mysterious golf club. A witness said the defendant took a golf club to the victim's house shortly before her death. Supposedly so it could be to sold at a garage sale (didn't happen) but it had disappeared after her murder. If the murder weapon were not that golf club then why with his team of private investigators did DeMocker not locate the golf club and turn it as he had the head stock cover?

Posted Friday, July 29, 2011

Article comment by: **[Oops - moderator, I forgot to sign my name] Attorney-Client privilege**

Well this ought to be interesting. I had a ruling in a bogus "criminal faxing" charge where a judge in Yavapai county tried to pierce the attorney-client privilege, wanting to depose my attorney about faxing a legal document on my behalf. That ruling would have gone to the US Supreme Court had the whole matter not been dismissed
I presume Mr. Sears, who has already cited ethics rules, will also have to invoke attorney-client privilege. It will be interesting to see if Sheila Polk's office will push to violate that right too
And, after this is all over, I wonder if Mr. Sears will run for County Attorney?
Mike Palmer <><

Posted Friday, July 29, 2011

Article comment by: **Hey Mr. Sears: DISH!**

This whole murder and trial has been a drama war. And it's taken FOREVER. The original judge dies of a brain tumor. Then there's the mysterious DNA on the body. The accused's daughter sends a fake email The defense attorneys resign. You can't make stuff like this up I'd be interested in what Mr. Sears has to say.

Posted Friday, July 29, 2011

Article comment by: **I'm Gonna Wait**

until I hear Mr Sears' side of the story.

Posted Friday, July 29, 2011

Article comment by: **R J**

Something is very wrong with this golf club theory It defies logic. Try hitting somone on the top of the head with a driver in a room with a 9 foot ceiling.. you won't land very many effective blows. The crime scene reports described a table with blood and tissue on the corner. A push, followed by a fall striking the corner of the table could produce the same type of indentation.....and is a much more plausible mechanism of injury.

Posted Friday, July 29, 2011

Article comment by: **Paging Barney Fife**

I'll bet Sears will "have a lot to say" lol. All the hoopla about the golf club cover hints at the desperation for the prosecution (who has no case bascally). They never found a golf club, and the cover didn't inflict the wounds. So get over it why don't you Honestly the prosecution's case is glassic smoke and mirrors and "let's drag this out" for another couple years. Their stabs at bike track pix, shoe print pix, golf clubs, emails from jail are reflecting the fact that they don't have the goods to convict. They just want to keep the thing going and hope DeMocker goes bonkers and confesses is my guess.

Posted Friday, July 29, 2011

Article comment by: **I bet you do have a lot to say Mr. Sears so how about that deposition to start with?**

This article illuminates personal involvement on John Sears part. It exposes that Sears knew quite a bit about how unethical the defense process was conducting itself at that time. Hopefully he will have to testify in court on the record. ... It will be interesting to hear his testimony and the other issues he only alludes to but never addresses (for the sake of a fair trial) Gotta wonder what the heck that means, if anything at all. Maybe he will write a book ...

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8/2/2011 10 09 00 PM

DeMocker's lawyer again moves for dismissal

Scott Orr
The Daily Courier

PRESCOTT - Steven **DeMocker**'s attorney has once again asked the judge in his murder trial to dismiss the case or have it tried by another county's attorney, alleging prosecutorial misconduct.

DeMocker is now just five weeks away from the start of his retrial on charges he murdered his ex-wife, Carol Kennedy, in 2008.

Craig Williams, writing in a response to a prosecution filing regarding sealed files that were sent to the Yavapai County Attorney's Office (YCAO), said that Deputy County Attorney Jeff Paupore's explanation that most of those files were found in a "banker's box" in the office of now-retired YCAO prosecutor Joe Butner "strains credulity."

Williams suggested that the state must have known about the filed documents. "This discovery by the state of the previously 'unknown' orders happened on the very same day this court brought the issue up," he wrote, and went to on say it was unlikely the YCAO "did not comb over what was in his files" when Butner left.

Responding to Paupore's claim that the defense - two previous attorneys who subsequently quit, triggering a mistrial - never objected to the distribution of the sealed files, Williams said, "The fact remains that the mistaken distribution of a few 15.9 orders - intended by Judge Lindberg (who was hearing the case at the time) or not - did not mean the state could illegally use OnBase (computer database) to read the sealed ex-parte motions "

Williams, who has been arguing that the state used unauthorized computer access to read and print dozens of sealed records, also refutes the prosecution's claim that there has been no harm done to or prejudice against **DeMocker**'s case as a result of having seen those files, so there should be no impact

"A court has the inherent power to sanction a party or its lawyers if it acts in 'willful disobedience of a court order,'" he wrote, quoting case law.

He then repeated his request to have Judge Warren R. Darrow dismiss the case or disqualify the YCAO from prosecuting it.

Darrow also granted former **DeMocker** attorney John Sears's request for more time to prepare a full response to the prosecution's request that he be compelled to give a deposition on several issues related to **DeMocker**'s first trial.

Reader Comments

Posted Saturday, August 06, 2011
Article comment by: **Magalia You are WRONG**

Rarely are crimes like murder witnessed so when they go to trial the evidence MOST used is circumstantial. Again, YOU, defense supporter, are completely WRONG I know you WANT your family to be innocent, but being blind to the real world will just make the rest of YOUR life as miserable as democker's. At some point you will see the monster for who he is and quit the naive, sophomoric, desperate claims about an unjust system treating your defendant unfairly It's soooo old! And simply not true
The bike prints, the shoe prints, the fake email, the stashed getaway bag, the duplicate passport. these things paint a picture of a sinister, premeditated action that could have only been completed by ONE person, and he will sit in jail until proven otherwise. Time to start living with reality.

Posted Saturday, August 06, 2011
Article comment by: **Casual Observer**

Well if he does "walk" they may just as well put up a billboard at the county line that says , if you kill your wife in Maricopa drag her body back into Yavapai .

Posted Saturday, August 06, 2011
Article comment by: **oh sure. zero evidence, uh huh.**

Now let's see, no evidence? Hahaha? How many grand juries listened to this non-evidence and added on how many additional charges?

Posted Saturday, August 06, 2011
Article comment by: **No Dismissal**

The same Democker sibling can keep writing daily blogs about no evidence, that county employees cheated and that the trial should be dismissed but it is pure nonsense. The case is now stronger than the first case with the elimination of Mr. 603 and the drug prescription ring as potential villains. Democker has been proven a liar and a manipulator with the email evidence planted by his minor daughter at his instigation. Based upon the recently released Transcript 3 (see court website on the first case), Knapp's alibi appears almost air tight with supporting testimony and evidence from his ex-wife, son, Hastings video manager and the Safeway store video. Per other court documents, Sgt. Sy Ray, an expert witness, will verify that the call made from Knapp's cell phone to his voicemail at 7.58 pinged near the ex-wife's house (tower 431 in section 1) and could not have come from the vicinity of Carol's house. The Court Clerk (she has since been replaced) granted access of court documents via routing and OnBase to county employees (there was no illegal access by employees). There is no evidence that county employees colluded or did anything with the document contents to significantly affect the Democker case. While the court may need to improve its future routing and access procedures, there are no grounds for a mistrial or change of jurisdiction from YC The sooner Judge Darrow disposes of these matters the better so the attorneys can concentrate on the upcoming second trial.

Posted Friday, August 05, 2011
Article comment by: **Magalia Princess**

Circumstantial evidence is NOT enough to convict anyone on any charges let alone murder charges. Clearly there are a lot of uneducated people out there making assumptions that don't need to be made Bottom line there have been many discrepancies in this case from the beginning and the court needs to dismiss the charges Everything that is assumed here in the public commentary is really funny to laugh at due to the preponderance of ignorance ha ha ha.

Posted Friday, August 05, 2011
Article comment by: **They cheated, they stole, they lose.**

We expect a lot more from our officials who are paid to uphold the law. They failed YC, they failed to uphold the rights of recent defendants, and still they offer nothing but excuses. They need to go.

Posted Thursday, August 04, 2011
Article comment by: **Evidence Is there**

Circumstanceal or not, evidence will convict this murder, no matter how much you want to deny and blame. Thinking he is a victim of the evil dark YCSO is but a tale crafted from a Harry potter book. Dream on, defense supporter, dream on

Posted Wednesday, August 03, 2011
Article comment by: **to suzi bell higgins**

First of all, the evidence says he didn't murder his wife so dismissing the case doesn't mean getting away with murder Second of all, you never answered the question about whether you are related to the Marie Higgins who is among the YCAO staff caught improperly accessing those ex parte documents.

Posted Wednesday, August 03, 2011
Article comment by: **DeMocker to trial**

The defense lawyers can ask for case dismissal as often as they want, but the trial is moving forward. It's time to prepare for trial and have a jury decide.

Posted Wednesday, August 03, 2011
Article comment by: **Zero Tolerance for Government Misconduct**

With all the government's unbridled power and vast resources, there should be absolutely no tolerance for any misuse of power and authority. The government and its agents must act in a manner which is beyond reproach or government loses the trust and confidence of the citizens it serves. This docugate scandal and the earlier actions by YCAO attempting to impugn and attack judges presiding over this case go beyond the pale and disqualify them as trustworthy and legitimate agents of the people Dismiss the case or remove YCAO. There can be no other remedy for this scandal

Posted Wednesday, August 03, 2011
Article comment by: **Amateur hour Democker style**

Ask The Editor

All the legal team has left is to try for dismissal They've lost every other random motion they've filed and managed to waste thousands of dollars for what? A voice in a vent? Previous attorney's mis-marked documents? Another email scheme involving democker's kids? Give it a rest already, sore losers. Your day in court fast approaches- shouldn't you be preparing for trial? Or did you finish summer school and now have some great new loop holes to try to exploit? The Democker family should be made to pay for all the random wasted time this defense hs caused. Period.

Posted Wednesday, August 03, 2011
Article comment by: **Paging Barney Fife**

DeMocker's been in jail for almost 3 years. They have no case to send him to the gas chamber (or life). They have some crummy pictures of shoe and bike tire tracks, and a weak "expert" shoe print man. That's not gonna send a presumably innocent man to life in prison, it just isn't. This thing has been a travesty of justice. Some things were unpredictable (judge's cancer, defense lawyers quitting). But you can't make stuff like this up

Posted Wednesday, August 03, 2011
Article comment by: **suzi bell higgins**

Get over it!!! Just because someone misfiled papers doesn't mean Democker should get away with murdering his wife!

Posted Wednesday, August 03, 2011
Article comment by: **Another County may choose not to go to trial**

Because there is not enough evidence. Let us review: Nasty divorce, woman brutally killed in home, no physical evidence tying ex to scene, husband does weird things, investigation botched, autopsy botched, prosecution botched, defense botched, new judge, new prosecution, new defense, man sits in solitary for 2 years. Draw your own conclusion because everyone else has decided.

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7/30/2011 9 58 00 PM

DeMocker defense says former lawyer will keep mum

Scott Orr
The Daily Courier

PRESCOTT - Steven **DeMocker** will not allow his former attorney to give a deposition requested by the prosecution in his murder case, said his current defense team in a response filed Friday with Judge Warren R Darrow.

DeMocker is just weeks away from the beginning of a retrial on charges that he murdered his ex-wife, Carol Kennedy, in 2008 John Sears and Larry Hammond represented him in his first trial, which ended when they quit, citing a "conflict of interest "

Deputy County Attorney Jeff Paupore filed a motion last week with Darrow asking that Sears be deposed as a "material witness" in **DeMocker**'s prosecution.

In his response, attorney Craig Williams said several times that **DeMocker** "does not waive any of his rights concerning attorney-client privilege" and that "any communications between the defendant and Mr. Sears remain confidential and privileged."

Sears does not know any more about the golf club cover Paupore alleged that he "secreted" from police, and could not testify about it if he did, said Williams.

Williams questioned whether Sears was a material witness at all "Simply listing a person as a witness does not make that person a 'material witness,'" he wrote

He also addressed Paupore's suggestion that Sears might know something about **DeMocker**'s alleged "voice in the vent," a defense in which **DeMocker** said he had heard an anonymous person explain who actually killed Kennedy and why through an air vent in his cell

"There is no evidence that the voice in the vent was not real," Williams said. "This is a trial issue, not fodder for a fishing expedition with Mr Sears." He said the same for Paupore's assertion that Sears knew more about **DeMocker**'s financial condition than he let on.

Williams also made the unusual argument that "the taking of a deposition of Mr. Sears will add to the already burdensome time and cost of litigation of this case," and called it "a needless burden on everyone."

John Sears himself filed an objection on Friday. He said that he could not be ready with documentation for an expedited hearing, and requested that he be given until Aug. 11 to file a response with the court.

A court-imposed gag order prevents both parties from discussing the case publicly.

Reader Comments

Posted Friday, August 05, 2011
Article comment by: **Some Facts Not Up For Debate is Wrong**

Have you actually read all the pretrial (first trial) motions and other documents filed by the defense? There were almost 700 motions, related responses, transcripts, pretrial hearings, evidence listings and other documents filed between 10/31/08 and 6/1/10 If you read the defense motions, you will not see that few of them complained about how long it was taking to begin the trial Instead, they were mostly preoccupied with trying to preclude court evidence and witness testimony Plus Democker must have made at least 10 attempts to lower his bail and get out of jail. The Judge and prosecution were kept busy responding to the constant pleadings. So, given the volume of court filings, a year and a half for the trial to begin was probably reasonable. You can't inundate the Court with paperwork and expect the process not to get bogged down As for any delays for the past year, those delays are on the defendant's shoulders for planting evidence in the case which had many repercussions.

Posted Thursday, August 04, 2011
Article comment by: **Some facts are not up for debate**

"No Speedy Trial" is correct. The County took over a year and a half to start the first trial. Whether or not you find this acceptable depends upon whether you believe in the right to a speedy trial, and whether you've already judged this defendant guilty or innocent.

Posted Thursday, August 04, 2011
Article comment by: **To: No Speedy Trial**

Hypocritical to blame the prosecution for delays caused by the defendant who to date has filed hundreds of motions that the prosecution is duty bound to respond to. As pointed out by other bloggers, the defendant's actions (email fabrication) caused last year's mistrial Also, there have had delays caused by the first judge's fatal illness The second judge has had other important cases to attend to including Ray Seems like the prosecution has been the only party not constantly asking for additional time.

Posted Thursday, August 04, 2011
Article comment by: **Democker To blame For Trial Delays**

Saying that the prosecution has dragged it's heels is such a joke - and it's completely WRONG. Defendant has done more to sabotage the trial than any in recent history, including OJ and Casey Was it the prosecution who's team QUIT because they had present manufactured FAKE EVIDENCE in the form of an email? Was it the prosecution that killed someone? It's sad how the defense blames ALL it's problems on the people that are doing the job they were hired to do for the people of Yavapai County. Your constant attacks of these people make your ENTIRE DEFENSE weak and rhetorical

Posted Thursday, August 04, 2011
Article comment by: **No Speedy Trial Here**

It took the County a year and a half to get the first trial started The prosecution delayed the start as long as it could, hoping some convincing, inculpatory evidence would turn up. It didn't.

Posted Wednesday, August 03, 2011
Article comment by: **OJ investigators manufactured evidence too**

I seem to recall Detective Furman planted blood on a sock. A useful reminder that overzealous cops sometimes lie, cheat, and distort or manufacture evidence. Or sometimes improperly hoard privileged documents belonging to the defense.

Posted Wednesday, August 03, 2011
Article comment by: **To: Attentive Listener**

OJ didn't manufacture evidence (the drug ring email) that caused ethical conflicts with his attorneys so that they quit resulting in a mistrial The defendant is 100% to blame for the year delay in justice being served. His new attorneys had to get up to speed and he also asked to have Judge Darrow continue on the second trial so they had to wait for the Ray trial to conclude

Ask The Editor

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A: You can access the grad photos at dailycourierpages com. Enter the site by

Posted Wednesday, August 03, 2011
Article comment by: **Attentive Listener**

The OJ trial only took 9 months. This is ridiculous.

Posted Wednesday, August 03, 2011
Article comment by: **S.L. Jr.**

Sounds more of a situation where they all are still finger pointing at anyone they can at this juncture. This case was so botched up during the initial investigation.

Posted Tuesday, August 02, 2011
Article comment by: **Subpoena Will Change that**

This law-breaking, evidence-hiding, typical attorney will change his tune as soon as he gets a subpoena from Judge Darrow His legal problems are just starting - with the evidence tampering charges, conspiracy to defraud the court charges, and the goofy voice in the vent, this guy is going down like the Hindenburg. And he'll take his client-attorney privilege to jail with him. This guy made (money) off of demacker - he is at least bound to do the right thing, isn't he?

Posted Monday, August 01, 2011
Article comment by: **Actually, I Think We Will Learn What Happened**

Judge Darrow promised to release more sealed documents sometime after July 15. Plus, the trial will include details surrounding the email fabrication (Democker is charged with related evidence tampering, obstruction of justice and fraud) which led to Sears and the other attorneys quitting the case and caused the mistrial. So, most of the information will come out eventually one way or another

Posted Monday, August 01, 2011
Article comment by: **gracie xx**

I know it hurts your feelings, or perhaps your sense of justice, though what YOU may think is just may actually not be, you who insist upon the unsealing of documents, but the fact is there are just some things you don't get to know.

Posted Monday, August 01, 2011
Article comment by: **If Unjust Why Are You Against Unsealing Documents**

Defense supporters argue inconsistent positions. They argue that former counsel were railroaded into quitting the Democker case but then then are also against unsealing court documents that show what really happened. Can't have it both ways. Either there was just cause or there wasn't and the documents prove which it is. Unseal the documents so the public knows.

Posted Sunday, July 31, 2011
Article comment by: **If the County Attorney hadn't unjustly accused the first attorneys the trial would be over**

Instead, the County Attorney's cynical ploy forced the conflict of interest withdraw per the AZ Supreme Court The end result is a retrial costing MILLIONS more tax $$$ for both court time and to fund BOTH sides of the case. You and me and every other YC taxpayer now get stuck with the $$$ TAX BILL. all thanks to Sheila Polk.

Posted Sunday, July 31, 2011
Article comment by: **Unseal Court Documents Surrounding Attorney Quitting**

Sears has a lot of explaining to do He used ethical issues to quit Democker's case (and the Supreme Court agreed) so he obviously knows that his behavior was subject to questions for which he should have to provide answers. If he will not be deposed, then the Court has no choice but to unseal all court documents, including transcripts, surrounding his resignation from the case.

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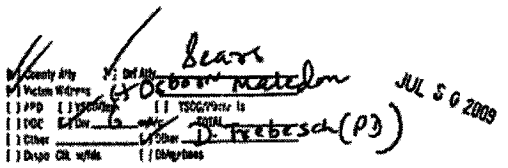
DeMocker trial - County Attorney: We had the documents, and the defense knew it

Scott Orr
The Daily Courier



PRESCOTT - The prosecution in the Steven **DeMocker** murder trial said in a court filing that they did, indeed, have copies of sealed documents in their files, but that the defense could see from the routing stamp that the material was to be sent to the Yavapai County Attorney's Office (YCAO) and they did not object to it.

Courtesy image
The cover sheet of one of the sealed court documents shows the clerk's routing stamp and the checkbox indicating that the County Attorney was supposed to receive a copy of it

Writing for the state, Deputy County Attorney Jeff Paupore said that, after Judge Warren R. Darrow last week pointed out the routing stamp and instructed the prosecution to find out whether it had the sealed documents in its files, a search turned up 12 of them in a cardboard "banker's box" from retired Deputy County Attorney Joe Butner's office in Camp Verde.

Paupore claimed he was unaware of the contents of the box prior to the search

DeMocker is preparing for a retrial on a charge that he killed his ex-wife, Carol Kennedy, in 2008. A mistrial was declared the first time after **DeMocker**'s attorneys quit the case.

Paupore said the previous defense team, John Sears and Larry Hammond, clearly knew the documents had been sent to the County Attorney's Office, and that "at no time did defendant's previous attorneys object, protest or raise an issue" about the fact that the state was given copies

"The only reasonable explanation is that Judge Lindberg (who was the original judge hearing the **DeMocker** case, until he fell ill and ultimately passed away) never intended the offices of YCAO and the Victim Advocate be kept in the blind on his orders," Paupore wrote.

"The order states '(UNDER SEAL)' on its face and this can only mean Judge Lindberg intended the order sealed from (only) the general public," he continued.

Because the original defense team knew the YCAO has been copied on the sealed documents and never claimed prejudice, he concluded, there were no rights violations or prejudice against **DeMocker**.

A gag order prevents anyone involved in the case from commenting publicly. The defense has yet to file a response

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Reader Comments

Posted Monday, August 01, 2011
Article comment by: **To**

The routing doesn't matter one bit. Both sides are bound by Supreme Court Rule 42, ER 4.4(b) . Prosecution violated it.

Give it a rest.

Posted Monday, August 01, 2011
Article comment by: **If Court Routed Documents to Employees How is this Improper Access?**

Facts clearly state that the court routed the documents to prosecutors and that it allowed the employees OnBase access for viewing. The employees did nothing improper to gain access. Defense supporters continue their unsubstantiated attacks including that county employees are blogging here. Rumor, innuendo and gossip seem to be the primary defense weapons rather than arguing the facts of the case. Where is any proof of their claims?

Posted Sunday, July 31, 2011
Article comment by: **Maybe there are 13 prosecution bloggers**

That's the same number as the number of YCAO and YCSO government workers caught improperly accessing sealed ex parte documents.

Posted Sunday, July 31, 2011
Article comment by: **Who is Shrill or Ranting?**

There is more than one blogger here favoring the prosecution. I claim three comments including the most recent "No Evidence..." which contains nothing shrill, ranting nor does it attack personally another blogger. I do not who wrote the other blogs. The prolific defense supporter is so very wrong about the fact that I have anything to do with the prosecution or investigators, their families or friends, none of whom I believe that I have ever spoken to. If she is this wrong about me, consider how wrong she may be about anything else she reports in this case? Personal attacks seem to be the only thing that she is good at discussing.

Posted Saturday, July 30, 2011
Article comment by: **I agree with *...intelligent comments.***

Could the very emotional prosecution supporter be a disinterested and objective member of the community who just feels inspired to make shrill comments in YCAO's defense? No way. These repetitive rants claiming no YCAO wrongdoing (going so far as to argue Docugate is everyone else's fault) are completely baseless and unconvincing and they are obviously either from one of the YCAO / YCSO staff caught illegally accessing the documents or someone very close to them. The reasons for Butner's sudden retirement are now very clear indeed, especially since a stash of sealed ex parte defense documents were found in his files.

Posted Friday, July 29, 2011
Article comment by: **No Evidence of Any Crime by Prosecution**

To date, with more and more facts coming out daily, there is absolutely no evidence that any prosecution member did anything illegal in viewing documents that were distributed to him or her by the Court or that he or she did anything nefarious with any contents of the documents that harmed the Democker case. There are no crimes that have been committed by the prosecution Although the defense should be chastised for wasting the court's time on senseless attacks It is time for all parties to move on to another subject that might be more persuasive in establishing guilt or innocence in the case.

Posted Friday, July 29, 2011

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Article comment by: **Let's have some more intelligent comments**

It's clear from writing style and tone that there's one very emotional prosecution supporter who's writing 80% of these comments. They repeatedly reference the content of prosecution motions as if they're established fact (i.e. "The order states (UNDER SEAL). ") This person must have a dog in this fight. Stand by for their multiple responses laced with name-calling In the meanwhile, the rest of us appreciate posts like the one from "@ Nonsense..." that provide meaningful insights into the law. After reading the referenced laws, one can't help but wonder why Joe Butner suddenly decided to retire.

Posted Friday, July 29, 2011

Article comment by: **the prosecutor should file charges**

OK, if I commit a crime why would it matter if someone else knew about it or "should have" and did nothing A crime was committed none the less. The prosecution coming up with such a lame excuse is a symptom of a lame system where everyone on both sides just make it up as they go and say whatever they can think of ..true or not. The system is corrupt because it is being run by the corrupt. Too bad there is no fix.

Posted Friday, July 29, 2011

Article comment by: **More Nonsense Jumps Gun Again**

As stated in the article, "The order states '(UNDER SEAL)' on its face and this can only mean Judge Lindberg intended the order sealed from (only) the general public." If the Judge merely sealed the 12 documents from the public, the prosecution is entitled to copies and Butner did nothing wrong. Democker's defense has constantly jumped the gun in its accusatory motions before it had assembled all of its facts. Now, the defense supporter is doing it again. Rather than dig a deeper hole, why not make sure you have the facts to support your allegations?

Posted Friday, July 29, 2011

Article comment by: **Docugate turned Defendant Mistake**

So your feeble attorneys can send a marked document to the plaintiffs and then claim some damage has been done? Are you serious? Again, the defendant's attorneys KNEW who had access to these documents, for 2 years, and is only NOW claiming fault because they discovered THEIR OWN ERRORS? Give it a rest already. And the continued attacks on the GOVERNMENT OF ARIZONA serves only to weaken your arguments. You really think because YOU accuse them means they did something?

Posted Thursday, July 28, 2011

Article comment by: **Sealed to the public is what was thought all along.**

It seemed like the "new" defense lawyers were writing dramatic motions that lacked substance. Now, it appears there was no real substance to include in the first place The former attorneys were aware that Judge Lindberg was allowing the prosecution to view the documents hence their security clearance with the courthouse's digital filing system It's good to get the whole story and not just the one sided, quite biased one that has been tried to be passed off as something sinister. Keep up the good work prosecution, let's get this case tried and reach a verdict.

Posted Thursday, July 28, 2011

Article comment by: **Keeping Book**

I sure hope the Courier is keeping book on the number of ethical lapses coming out of this County Attorney's office. The voters need to be reminded of them.

Posted Thursday, July 28, 2011

Article comment by: **@ Nonsense Again Speaks More Nonsense**

Supreme Court Rule 42, ER 4 4(b) required Butner to disclose the receipt of the sealed documents (unless the Defense authorized him to have those). Period. Period. Period. If the Defense did not authorize, and the CA did not disclose their receipt (whether CA was at fault in receiving them or not does not matter), then CA violated the ethical rules. Period. Period Period This has nothing to do with guilt or innocence of DeMocker, it has to do with the rules governing lawyers and the rules of our justice system. What we don't know yet is whether or not the CA advised the Defense. Probably not since the CA's own recent investigation did not disclose them. Here is the rule·

17A A.R.S. Sup.Ct.Rules, Rule 42, Rules of Prof.Conduct, ER 4.4

Arizona Revised Statutes Annotated Currentness
Rules of the Supreme Court of Arizona (Refs & Annos)
V. Regulation of the Practice of Law
D. Lawyer Obligations
Rule 42 Arizona Rules of Professional Conduct
Transactions with Persons Other Than Clients
ER 4 4 Respect for Rights of Others

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden any other person, or use methods of obtaining evidence that violate the legal rights of such a person.

(b) A lawyer who receives a document and knows or reasonably should know that the document was inadvertently sent shall promptly notify the sender and preserve the status quo for a reasonable period of time in order to permit the sender to take protective measures.

Posted Thursday, July 28, 2011

Article comment by: **Nonsense Again Speaks More Nonsense**

You keep blaming the wrong party thinking that if you repeat it enough times that somehow makes it true But after crying "wolf" so many times, you are no longer believable. There was no misconduct by county attorneys who were on the receiving end of the documents and who did nothing wrong to gain access to the documents There has been no actual harm shown to Democker's case as a result of the distribution authorized by the court clerk. Before the defense filed the accusatory motions, why did they not look at their own files including the document stamps to previous defense attorneys to determine whether their predecessors knew about the distribution and why they made no timely objections? The poisonous false attacks on the prosecution have now backfired and it is the defense that looks inept and unprofessional. Not a great beginning by the defense on a major criminal trial.

Posted Thursday, July 28, 2011
Article comment by: **Take another look Defense team**

It's as if the defense supporters did not read this article or look at the picture of the stamp used on the documents. They'd rather explain "ex parte" to themselves then claim these docs were exclusive but READ AGAIN. Your whole theory about abuse of the system has been DEBUNKED. Next theory, please...and this time, READ YOUR DOCS before you decide to waste more taxpayer dollars! Your sour grapes rants about YCSO and the evil conspiracy circling around DeMocker appear to be the wagons of justice about to stop the defenseless criminal you support. I know you are family. I know you are close to this guy. And soon you, too, will knowyou are wrong

Posted Thursday, July 28, 2011
Article comment by: **Defense spin Teetering**

Round and round they go - where they stop only Democker will know . the inside of a prison cell he'll surely bestow!

Posted Thursday, July 28, 2011
Article comment by: **What a Joke Of a Conclusion**

So the defendant's attorneys wasted court time and money to find out THEY made the mistake. The defendant should be made responsible for ALL COSTS of these meaningless motions and wasted court resources. It's amateurs like the defense attorneys that only serve to cost taxpayers money. And to the defendant supporters - I guess you'll have to rely on your conspiracy theories about YSCO being out to get Democker. Good luck with that pipe dream.

Posted Thursday, July 28, 2011
Article comment by: **Now THAT'S Chutzpah!**

What the County Attorney's Office is essentially saying is that documents clearly labelled "Ex Parte" by the court were not intended to be "Ex Parte", and that YCAO always believed they were entitled to view them. Setting aside YCAO's shifting explainations over the past few weeks, it would appear that YCAO staff still don't grasp what it means to pick up a document that says "Ex Parte" on the cover sheet. It would be interesting to see the faces of people like Mr. Paupore when they make these statements in open court.

Posted Thursday, July 28, 2011
Article comment by: **Is YCAO saying their misconduct is okay since no one caught them in time?**

That seems to be their argument: that the defense should have noticed the routing slips mismarked by the court clerk, and the defense is responsible for policing what is sent by the clerk to the prosecution? I thought officers of the court are supposed to act legally and ethically and police themselves. If so, they should have notified the clerk the first moment they saw an ex parte motion or order. The fact they didn't speaks volumes.

Posted Thursday, July 28, 2011
Article comment by: **Nonsense Again**

The only reasonable explanation (until more is known) is that sealed means sealed and that the CA attorney hid these docs in Camp Verde.
From the stamp shown by the Courier, Division 6 (Judge Lindberg) is shown on the distribution list. According to the CA, Judge Lindberg saw the document first and THEN had it sent to himself? No. The document was distributed in error to the CA. If the defense only received an electronic, scanned copy, then it is very possible that the routing stamp was not legible
In any event, why didn't the CA's "investigation" into who saw what find these documents previously? The CA can't find documents in their own possession? Not a very good investigation.
Seems like Butner needs to be asked about this. And ask Sears if he knew Butner had them. I'd guess not. But if he did know Butner had them, then this can be put to rest. If Butner had them and did not let anyone know, I imagine there will be an ethical complaint against him. He doesn't get to see a dozen documents that are sealed even if the clerk sent them to him unless that's OK with the defense. Period
Why weren't these documents in the CA"s file? Why were they being kept hidden in a box in an office in Camp Verde? Is that standard practice for the CA?
The Judge should grant the Defense request that another prosecutor's office has to take the case over or the charges be dismissed with prejudice. That way we'll also get to see how much this fiasco is costing before the next election for CA.
Once again, this is not justice for the guilty or the innocent.

Posted Thursday, July 28, 2011
Article comment by: **Way To Go Defense Team**

You've succeeded in point out YOUR OWN MISTAKE!! Sorry the loophole just closed on your pipe dream. Did some one just open a big can of JUSTICE? Amateur hour is officially over. Poof goes your chances...

Posted Thursday, July 28, 2011
Article comment by: **Finally We Can Get On With the Real Case**

Docugate has been an unnecessary distraction from the murder, evidence tampering, life insurance fraud and indigency fraud charges against the defendant. The new defense attorneys aggressively attacked the prosecution but now have egg on their face because it turns out their predecessors (and perhaps the former judge) knew all along who was routed documents and made no attempt to stop it. The court clerk facilitated the routing and OnBase access to county employees. Hopefully, Judge Darrow will rule soon and put an end to the sideshow.

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Democker lawyesr say no to former attorney's deposition

Filed under *Quad-Cities* on Monday, August 01, 2011 by Author: News.

Lawyers for a Prescott stockbroker facing a murder retrial say they won't allow his former defense attorney to give a deposition in the case. John Sears is one of two attorneys who quit Steven DeMocker's case in October, citing a conflict of interest. The move triggered a mistrial in November. Prosecutors filed a motion last week that Sears be deposed as a material witness. But DeMocker's current lawyer says any communications between Sears and DeMocker remains confidential and privileged. The 56-year-old DeMocker is accused of killing his ex-wife, Carol Kennedy, with a golf club in July 2008 to avoid paying hefty alimony bills. He faces a life sentence if convicted. The Associated Press says DeMocker's retrial is scheduled to start on Sept. 7.

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